86-1090

IN THE

Supreme Court Of The United States

OCTOBER TERM, 1986

EULA NATION,

Petitioner

Vs.

EL DORADO SCHOOL DISTRICT,
ARKANSAS EDUCATION ASSOCIATION,
RAMONA HEARNE,

Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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QUESTIONS PRESENTED FOR REVIEW

(1) Whether the Court of Appeals erred in dismissing this appeal as frivolous.

(2) Whether the Court of Appeals applied the correct standard of review to the pro se appeal of the petitioner.

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NO. A—387

EULA NATION,

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ARKANSAS EDUCATION ASSOCIATION,
RAMONA HEARN,

Respondents

PETETION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

The Petitioner respectfully prays this Court to issue a Writ of Certiorari to review and reverse the opinion of the United States Court of Appeals for the Eighth Circuit (hereinafter, Court of Appeals), entered in cause number 84-1161 on the 5th day of August, 1986 and the denial of rehearing entered on the 4th day of September, 1986.

OPINIONS BELOW

The opinion of the United States District Court, Western District of Arkansas, has not been reported but may be found at Page A-1 through A-11 of the

Appendix. The mandates of the Court of Appeal may be found at pages A-12 through A-14 of the attached Appendix.

JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1254(1) and Rule 17.1 of the Rules of this Court which allows review of an important question which should be settled by this Court.

The decision of the Court of Appeals was issued on the 5th day of August, 1986. A timely petition of rehearing was denied on the 4th day of September, 1986. An Application for extension of time for filing this Petition was filed and granted. This Petition is timely in that it is filed within the extended time period allowed by this Court.

STATEMENT OF THE CASE

The Petitioner was employed by the Respondent School District for a period of 21 years and was a non-probationary teacher pursuant to Arkansas Statute §80-1264. During 16 years of that period, the Petitioner was deemed by the School District to be a competent, if not excellent, teacher. In the school year 1978—79, the attitudes of the School Administration changed and conflicts between these parties commenced. The reasons for the change of attitude were initially unknown to the Petitioner but were later determined to be unrelated to her job

performance or her competency as a teacher.

The petitioner, in April, 1978, was involved in a controversy with law enforcement officials. These conflicts did not impinge upon the ability of the Petitioner to perform her assigned duties competently nor did they negatively affect the professionalism of Petitioner's interaction with students, colleagues or parents. In spite of the evidence of Petitioner's unchanged ability to perform as a teacher, the Respondent School District commenced certain actions which eventually resulted in a lawsuit.

The School District, starting in the school year 1978-79, transferred Petitioner to another school into a position as a Reading teacher, for which she had no expertise. Petitioner held this position, at two different schools, for approximately 3 years.

In the school year 1981-82, the Petitioner was employed as a full-time substitute teacher. Then, in the school year 1982-83, the Petitioner was informed her contract would not be renewed.

Petitioner sought the assistance of the Arkansas Education Association (AEA). At the urging of the agent of AEA, the Petitioner resigned immediately prior to the hearing of the school board convened to discuss the non-renewal of her contract. The Petitioner attempted to rescind this resignation and it was refused by Respondent School District.

The petitioner then filed suit against the

Respondents, School District, AEA and Ramona Hearne, agent for AEA. The Petitioner alleged she was deprived of rights and privileges of citizenship secured under the provisions of 42 U.S.C. §1983, 42 U.S.C. §2000(e) et seq and the Fourteenth Amendment of the United States Constitution.[1] Jurisdiction was based upon 28 U.S.C §1343 and 42 U.S.C. §2000(e) (5).

An order dismissing the complaint of the Petitioner, with prejudice was entered on the 17th day of April, 1986 after a two (2) day trial to the Court with the Honarable Oren Harris, presiding.

The trial counsel of Petitioner did not go forward with the appeal. The Petitioner filed, pro se, an appeal to the Court of Appeals. The Petitioner also filed a motion to file in forma pauperis. This motion was denied. The appeal of Petitioner was dismissed as being frivolous pursuant to Rule 12(a) of the Eighth Circuit Rules.

REASONS FOR ALLOWANCE OF THE WRIT

A. That the Court of Appeals erred in dismissing this appeal as frivolous.[2]

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[1]An Order granting the Respondents', AEA and Ramona Hearne, Motion for Partial Summary Judgment on the allegations arising under 42 U.S.C. §1983, was granted on April 4, 1986. The Petitioner has not appealed that Order.

[2]The questions which are presented for review are intertwined. At some points, a discussion of one issue will inevitably lead into the other.

The Petitioner was represented at the trial level by counsel. After dismissal of her action by the District Court, the Petitioner was not able to obtain counsel due to a lack of funds. She then filed the notice of appeal pro se and also filed a motion to proceed in forma pauperis. This motion was denied by the Court of Appeals and the appeal subsequently dismissed as frivolous pursuant to Rule 12(a) of the Eighth Circuit Court Rules. The Court of Appeals did not state on what basis it found the Petitioner's appeal frivolous and did not state any reasons for denying Petitioner's motion to proceed in forma pauperis.

The standard for dismissal of a pro se complaint was enunciated in *Haines v. Kerner*, 404 U. S. 519, 30 L.Ed.2d 652, 92 S.Ct. 594 (1972).[3] The Court there stated that a pro se complaint is held to less stringent standards than pleadings drafted by an attorney. Such a complaint can only be dismissed for failure to state a claim if it appears beyond doubt that the Petitioner can prove no set of facts in support of his claim which would entitle him to relief. This standard has been reaffirmed by this Court in *Estelle v. Gamble*, 429 U. S. 97, 106, 97 S.Ct. 285, the Eighth Circuit Court of Appeals, in applying this standard, has stated that "under the liberal rules of constructions applicable to pro se complaints, an action should be deemed frivolous only if it appears beyond doubt that the Petitioner can prove no set of

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[3]It has been determined that the same standard for frivolity normally applies in the District Court and on appeal. *Lucien v. Roegner*, 682 F.2d. 625 (7th Cir. 1982).

facts in support of the claim which would warrant relief." *Sanders v. U.S.*, 760 F.2d. 869 (8th Cir. 1985); *Horsey v. Asher,* 741 F.2d. 209, 211 (8th Cir. 1984) quoting, *Smith v. Bacon,* 699 F.2d., 434, 436 (8th Cir. 1983).

In Support of her petition for rehearing, the Petitioner supplied a handwritten pleading. While the pleading is certainly inartful, it does raise issues which should have been considered by the Court of Appeals. A review of this document reveals that the Petitioner questioned the hearsay testimony of certain witnesses. (Appendix A-17). The procedure followed by the Respondent School District in reprimanding the Petitioner was also questioned. (Appendix A-17). It was these reprimands which were used to terminate the Petitioner's contract.

A review of the Respondent School Board policy would lead to a finding that their procedures were not following in this instance.

If a liberal construction of the pleading was applied, as is required, then this appeal could not be deemed to be frivolous. The Petitioner, as a lay person forced to appeal this action pro se, attempted to enunciate to the best of her ability the issues which should have been considered on appeal.

While it is certainly not the duty of the Court of Appeals to assist a pro se Petitioner or to guide the Petitioner step by step through the appeal process, it is not fair or just for the Court to totally ignore the

Petitioner's ignorance of the process in rendering a dismissal of her action.

B. The Court of Appeals applied an incorrect standard of review to the pro se appeal of the Petitioner.

Since *Haines v. Kerner,* 404 U. S. 519, supra, the various circuits have held that while a pro se litigant must meet certain standards, they are not the same high standards as applied to a member of the Bar. In *Stebbins v. Keystone Insurance Company,* 481 F.2d. 501 (U. S. App. D. C. 1973) Circuit Judge Robinson made this statement in his concurring opinion:

> . . . the presence of such a litigant (pro se) may summon the Court to the minor effort needed to make sure they do not become traps for the legally unlearned. We have long recognized that laymen cannot be held to the standards of performance expected of members of the Bar. (Cites omitted).

Pro se pleadings are construed liberally, *Sanders v. U. S.,* 760 F.2d. 869, 871 (8th Cir. 1985); *Van Sickle v. Holloway,* 791 F.2d 1431 (10th Cir. 1986); to insure that the claims of the litigant are given fair and meaningful consideration. *Childs v. Duckworth,* 705 F.2d. 915 (7th Cir. 1982); *Madyun v. Thompson,* 657 F.2d. 868 (7th Cir. 1981).

The Court of Appeals did not apply these long recognized principles in dismissing the appeal of Petitioner. While they gave no reason for the dismissal, a review of the pleading filed by Petitioner does supply issues which require the consideration of this Court. The issues raised by Petitioner while not complying strictly with the Federal Rules of Civil Procedure do provide sufficient notice of the issues to be addressed.

CONCLUSION

The Petitioner requests that this case be remanded back to the Court of Appeals and that she be allowed a second chance to cure the defects of her appeal. Substantial justice would be served in finding that the frivolous suit rule not be applied to Petitioner.

Respectfully submitted,

KATHLEEN BELL
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130 COLUMBIA STREET
HELENA, ARKANSAS 72342

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that three (3) true and correct copies of the above and foregoing Petition for a Writ of Certiorari to the United States Supreme Court has been served upon Mr. William I. Prewett, Attorney at Law, 423 N. Washington, El Dorado, AR 71730; and Ms. Mady Gilson, Bredhoff & Kaiser, 1000 Connecticut Ave. N.W., Washington, D.C. 20036, this 19 th day of December, 1986.

/s/ Kathleen Bell
KATHLEEN BELL

Appendix

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

EULA NATION,

PLAINTIFF,

Vs. NO.84-1161

ELDORADO SCHOOL DISTRICT
ET AL,

DEFENDANTS.

MEMORANDUM OPINION

In this action the plaintiff, Eula Nation, a black female, alleges that she was deprived of rights and privileges of citizenship secured under the provisions of 42 U.S.C. §1983, 42 U.S.C. §2000(e) et seq, and the Fourteenth Amendment to the United States Constitution.[1] Jurisdiction is based upon 28 U.S.C. §1343 and 42 U.S.C. §2000 (e) (5).

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[1]On March 21, 1986, the Court entered an Order denying plaintiff's Motion for Leave to Amend her complaint to assert causes of action under 42 U.S.C. §§1981 and 1985. The Court ruled at that time that the Motion was not timely filed and that substantial prejudice to the defendants would result if the plaintiff were permitted to amend at that late date. This matter had been previously scheduled for trial on the merits on two other occasions.

In the Court's Order of November 20, 1985, rescheduling this matter for trial, the Court established a discovery deadline of March 1, 1986. Also, the Court established a deadline for

Pursuant to regular notice, the case was tried on the merits commencing April 14, 1986. The action was tried to a completion in two days. At the conclusion of all the testimony and after all parties were aforded an opportunity to make such remarks as might have been appropriate, the Court, being well and sufficiently advised, without the intercession of a jury, based upon the testimony heard, numerous exhibits entered, and the record as a whole, orally pronounced judgment upon the allegations and issues raised in plaintiffs original complaint and as developed in the course of the trial.[2]

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filing pretrial motions of February 18, 1986. As previously noted the motion for Leave to Amend was filed February 20, 1986, a date clearly outside the deadline. The Court ruled that substantial additional discovery would be required in preparing for trial on these new causes of action, which discovery would be outside the earlier established deadline of March 1, 1986, and would in all practical respects require yet a third continuance. Therefore, the Court denied the Motion for Leave to Amend and the action proceeded to trial upon the allegations and claims as raised in the original complaint.

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[2]On April 4, 1986, the Court entered an Order granting the Motion for Partial Summary Judgment filed by defendants Arkansas Education Association and Ramona Hearne on the allegations arising under 42 U.S.C. §1983 as asserted against them. AEA is neither an agency nor part of any governmental branch of the State of Arkansas. Hearne, an agent of AEA, is not an agent of the State of Arkansas. Therefore, the requisite "action under the color of state law" was lacking. The Court dismissed the complaint insofar as the allegation arising under §1983 and the Fourteenth Amendment were concerned. The allegations arising under Title VII, 42 U.S.C. §2000(e), were not affected by the Court's ruling on that motion.

This memorandum Opinion is not intended to supercede or otherwise replace the ruling of the Court from the bench on April 15, 1986.

The Court incorporates into this Memorandum Opinion findings of fact and conclusions of law pursuant to Rule 52, F.R. Civ. P.

At the outset of the trial the Court granted defendant El Dorado School District's oral Motion for Substitution of Party. Since commencement of the action of Mr. W. D. Tommey has retired as superintendent of schools. Mr. Robert Watson has become the successor superintendent. Mr. Tommey remains as a defendant in his individual capacity, Mr. Watson is a defendant only in his representative capacity.

Plaintiff was employed by the El Dorado School District as an elementary school teacher in 1962 upon her graduation from Grambling College, now Grambling State University. She remained in the employment of the district until May 1983.

Beginning school year 1978, problems began to develop which adversely affected plaintiff's teaching skills. At that time she was third grade teacher at West Woods Elementary School. There arose an incident between plaintiff and local law enforcement officers which led to her arrest and subsequent plea of guilty to assaulting a police officer. Based upon this incident it became necessary for the district to transfer Mrs. Nation to another elementary school,

Yocum, where she served two years as a reading lab instructor.

At the conclusion of the second year, the decision was made to transfer Mrs. Nation to yet a third school in effort to assist and promote improvement in both her teaching skills and her attitude toward the students and her fellow teachers. She was assigned to Northwest Elementary as a reading lab instructor for the school year 1980-1981. Throughout these years, 1978-1981, there had been several complaints lodged by parents and students concerning Mrs. Nation's use of corporal punishment on students. Further, Mrs. Nation refused to accept and implement changes suggested by her principals and other teachers.

The District assigned Mrs. Nation to a position as a substitute teacher for the school year 1981-1982. She was paid a salary based upon the regular classroom teacher salary scale. During this school year, Mrs. Nation assumed temporary teaching assignments based upon need. When not in a classroom setting, Mrs. Nation was assigned to the reading lab at Rogers Junior High School. She was permitted full time employment.

Mrs. Nation was assigned to Watson Elementary School for the year 1982-1983, as a sixth grade teacher. Her principal at Watson was Mr. Patrick Humphries, who is no longer with the El Dorado School District in any capacity. During that school year, there were numerous complaints lodged against

Mrs. Nation concerning her cold attitude and the disciplinary procedures utilized in the classroom. While no record was made of complaints made during the first semester, there were at least three documented conferences between Mrs. Nation and the principal commenceing in February 1983. See Defendant El Dorado School Exhibits No. 13, 14, 15.

The testimony revealed numerous incidents where Mrs. Nation struck students with a ruler, either on the hand or the shin. She also stepped upon the toes of students who did not have their feet directly under their desks. The testimony reflects that on at least one instance Mrs. Nation spanked a child to such an extent that ice had to be placed upon the skin to soothe the pain and injury. Mrs. Nation grabbed one young boy by the jaws with such force that his head was jerked backward, striking the wall. The testimony of physical force continued with many other incidents.

In March 1983, Mr. Tommey informed Mrs. Nation that he would recommend to the School Board that her contract of employment should not be renewed based upon the series of parent/student complaints and reports from the principals under which she served. On April 7, 1983, Mr. Tommey formally informed Mrs. Nation of his proposed action by letter. See Defendant El Dorado School Exhibit No. 24.

Soon thereafter, Mrs. Nation contacted her AEA representative. Ramona Hearne was the

UniServ representative for this district of the AEA. Her duties included assisting members in addressing employment related matters, including discipline, termination, and non-renewal of contracts. It is undisputed that at all times relevant that Mrs. Nation was a member in good standing of the AEA.

On May 2, 1983, as provided under State Law, Ark. Stat. Ann. §80-1266 et seq., Mrs. Nation made a timely request for hearing on the action proposed by Mr. Tommey before the School Board. See Defendant El Dorado School Exhibit No. 25. She was granted a hearing date of June 13, 1983.

Mrs. Hearne as UniServ representative assisted Mrs. Nation in preparing for the hearing. Mrs. Nation was granted access to counsel retained by the AEA for such cases, Mr. Richard Roachell, for planning and assessment of the merits of the case. When Mrs. Hearne was unavailable to assist Mrs. Nation due to the illness of her husband, the AEA provided a UniServ representative from another district to counsel and assist Mrs. Nation.

On May 16, 1983, Mrs. Nation, Mrs. Hearne, and Betty Goodwin, a Classroom Teacher Association representative (the local organization under the AEA), engaged in a conference with Mr. Tommey. The testimony clearly reveals that the sole purpose was to allow Mrs. Nation to submit a letter of resignation in return for promises of favorable recommendation upon her applications with other school districts. The Court would note that the

credibility of the witnesses bears heavily in favor of the defendants in this regard. The Court would point out that Ms. Goodwin is a black female for the record.

Although Mrs. Nation testified that Mrs. Hearne forced her to resign, the Court is not persuaded by this self-serving testimony. It is abundantly clear that this reason was fabricated solely upon her in support of her claim against AEA. At the time she submitted her handwritten letter of resignation[3], Mrs Nation was and had been represented fully within the duty the AEA had assumed. Mrs. Hearne was fully prepared to represent Mrs. Nation at the Board hearing scheduled for May 18, 1983. However, her services were no longer useful.

On June 10, 1983, by letter drafted by Mrs. Hearne who continued to advise and assist plaintiff, Mrs. Nation requested that she be allowed to appear before the Board to plea for withdrawal of her resignation. Her request was granted and on July 13, she appeared before the Board in effort to withdraw this earlier letter of resignation. Following a spirited hearing on the issue, the Board voted in favor of accepting the resignation and against withdrawal.

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[3]There was dispute as to who prepared the letter of resignation. The Court finds from the credible testimony presented by defendants that Mrs. Nation drafted the letter in her own hand, with a minimum assistance from Mrs. Hearne and Ms. Goodwin. There was no coersion, force, or threat against Mrs. Nation to write and sign the letter.

Thereafter, plaintiff filed her charge with the EEOC alleging racial discrimination against both the school district and the AEA.

The Court must analyze the allegations herein contained under the guidelines as established by the United States Supreme Court in the cases of *McDonnell Douglas Corp. v. Green,* 411 U.S. 792 (1974) and *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248 (1981), in which that Court announced the allocation of burdens of proof, and their application, in civil rights actions.

Initially, the plaintiff must establish a prima facie case of discrimination by a preponderance of the evidence. This requires the plaintiff to establish three essential elements: (1) she is a member of the protected class, racial minority; (2) she was discharged; and (3) she must produce evidence of disparate treatment from which the court may infer a causal connection between the basis and the discharge. *McDonnell Douglas Corp. V. Green,* supra. The Court finds that Mrs. Nation was able to satisfy this burden. Her resignation was result of the letter reciting her contract would not be renewed. It is undisputed that a white female replaced her. The establishment of the prima facie case raises the inference of discrimination because it is presumed that these acts more likely than not are based upon consideration of impermissable factors, unless otherwise explained by the employer. *Furnco Construction Co. v. Waters,* 438 U.S. 567 (1978).

Upon plaintiff having established the prima facie case, the burden then shifts to the defendants herein to articulate a legitimae, nondiscriminatory reason for the employment decision to rebut the presumption of discrimination. *Burdine,* 450 U.S. at 248. The Court is of the opinion that all defendants have adequately and fully responded to the allegations of racial discrimination through the presentation of credible, convincing testimony concerning Mrs. Nation's teaching skills, her attitude, and her sudden outbursts of anger toward the students. Further, these reasons provide a substantial, reasonable basis for the employment action taken by the school district. It is clear that Mrs. Nation voluntarily terminated and that Mrs. Hearne performed her duties as UniServ representative to the fullest extent and without discriminatory intent. The testimony reflects that Mrs. Hearne has endeavored to represent all AEA members, whether black or white, in such a fashion, treating all equally.

The Court is of the opinion, therefore, that the defendants successfully articulated legitimate, nondiscriminatory justifications for the action taken. Thus, the burden shifted back to Mrs. Nation to show that the asserted reasons were pretext for discrimination. *McDonnell Douglas Corp. v. Green,* supra.

This burden fell heavily, and fatally, upon plaintiff. Even considering the evidence offered in her case-in-chief in determining whether this burden has been satisfied, the proof falls short of the mark. Also,

all that was offered in rebuttal was the testimony of Rance Nation, plaintiff's husband, that Mr. Humphries had stated in Spring of 1983 that Mrs. Nation had been performing her job well. Nothing else was offered. The ultimate burden of persuasion rested upon plaintiff, a burden which she failed to sustain. There is no showing by plaintiff of intentional discrimination or that the reasons given were unworthy of credence. *Burdine,* 450 U.S. at 256.

The Court can only conclude that plaintiff was treated similarly to any and all others similarly situated, whether white or black. Her difficulties which led to her letter of resignation were self-created. Each principal under which she had served from 1975 through 1983 had offered assistance and recommendations to Mrs. Nation in improving her abilities as a classroom teacher. However, she did not improve. Rather, her attitude toward the students hardened and her imposition of corporal punishment increased, notwithstanding a clear policy against such action.

Further, the Court can only conclude that the AEA and Mrs. Hearne performed their jobs as well as could be expected under the circumstances. There is no basis in fact for the discrimination allegation brought against either by plaintiff. Therefore, the Court finds that the complaint should be dismissed with prejudice as to all defendants. Each party shall bear their own costs.

A separate Judgment shall be entered accordingly. Dated this *17th* day of April, 1986.

/s/ Oren Harris
UNITED STATES DISTRICT JUDGE

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 86-1617WA

EULA NATION,
Appellant,

Vs.

EL DORADO SCHOOL DISTRICT,
ET AL,
Appellees.

Appeal from the United States District Court for the Western District of Arkansas

This appeal from the Western District of Arkansas comes before the court on appellant's application for leave to proceed on appeal in forma pauperis. In connection therewith, the court has carefully examined the original file of the district court in case No. 84-1161.

It is hereby ordered that leave to proceed in forma pauperis is denied. It is further ordered that appellant show cause, within fifteen (15) days of the entry of this order, why this appeal should not be dismissed as frivolous.

July 2, 1986

Order entered at the direction of the Court:

/s/ Robert D. St. Vrain
Clerk, U.S. Court of Appeals, Eighth Circuit.
By VMK

Filed July 2, 1986

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 86-1617WA

EULA NATION,
Appellant,

Vs.

EL DORADO SCHOOL DISTRICT,
ET AL,
Appellees.

Appeal from the United States District Court for the Western District of Arkansas

On July 2, 1986, appellant was directed to show cause why this appeal should not be dismissed as frivolous. The Court has reviewed the material submitted by the appellant in response to the show cause order entered by this Court.

This appeal is hereby dismissed as frivolous pursuant to Eighth Circuit Rule 12 (a).

August 5, 1986

Order entered in accordance with opinion.

Clerk, U.S. Court of Appeals, 8th Circuit

Filed August 2, 1986

APPENDIX C

Michael E. Gans, Chief Deputy
United States Court of Appeals

Dear Mr. Gans,

I am filing a petition for a rehearing on No. 86-1617WA Eula Nation.

1. My Attorney did not meet proper deadlines.

2. My Attorney did not properly represent or defend me.
   (a) The suponeas were sent out too late to be received by some of the witnesses in time for the trial.
   (b) Some of the witnesses who came on my behalf were not allowed to testify. I was not allowed to rebuttle false statements that were made on the second day of the trial.
   (c) The day of the trial he tried to get me not to go through with the trial.
   (d) The second day he tried to get me to settle for $2,000.
   (e) I was advised to be forceful with my answers and look the judge in the eyes so he would believe me—this proved to be against me. I seemed to fall in their trap.
3. False Testimonies were given:
   (a) I did not draft the letter of resignation. Mrs. Hearne dictated the letter to Betty Goodwin and insisted that I either sign that one or copy it over.

(b) No administrator had confronted me with problems affecting my teaching skills in 1978 or any year. There was no record in my file to substantiate this accusation. I got a complete copy of my school file in May 1983.

4. The reasons given for my moving from school to school were false.

(a) At Westwoods, I was removed after having taught 10 years there. Mr. Tommey listened to white parents' complaint about the police incident. He told me I would have no children in my room. Therefore he would place me in reading lab for one year at Yocum School. I remained at Yocum for two years. The third year—the funding for the reading lab ran out. At this point Dr. Snell, the Supervisor of Federal Programs suggested that I write a letter to be transfered to the reading lab at Northwest School. The Northwest Reading teacher was given a third grade classroom which should have been given to me—according to Mr. Tommey's previous statement. Enrollment in reading labs are about 90% Black students.

(b) I wrote a letter in April 1981, asking to be removed from the Reading Lab into a regular classroom within the same school. I got no response from this request. For the 81-82 school year I did not receive my contract until I wrote him in August. He gave me a job as a permanent Substitute teacher with Betty Goodwin in the Reading Lab at Rogers Junior High School. Also, I was a substitute teacher wherever I was needed. I received no com-

plaints from the many classrooms I worked in; from kindergarten, all the elementary schools (except Northwest) and Rogers Junior High. I handled Advanced Math, Math Lab, Regular Math, Advanced English, Reading Classes, Home Economics, all elementary classes, P. E., Music and EMR Labs.

(c) The next year, 1982-83 I was placed at Watson Elementary School at the last minute as a 6th grade teacher. The first thing the principal said was, "It's rumored that you bit a policeman". I proceeded to explain and he said, "that's OK I'm going to help you overcome the rumor". He was very supportive and pleased. He, Mr. Humphries, held the first faculty meeting in my classroom and made the statement that my classroom was conducive to learning.

5. False statements about abuse of children were made:
   (a) Dorothy Shirey said that I spanked a child's leg to the extent that ice had to placed on it.
   (b) Eugene Johnson said that I put a mark on a boy's arm. The child had a permanent scar already on his arm. When I contacted my lawyer about the principal's statement, he advised that there was no need to pursue it further. The child admitted that the scar was there already.
   (c) Mr. Humphries stated that I stepped on children's toes, was cold, and grabbed a child by the jaw. I was not guilty and no proof of these offenses were given.

6. It was stated that my teaching skills deteriorated.

   My skills in teaching did not decrease, but increased with the years of experience. When I was placed in the Reading Lab, I took the required courses to get certified in Reading. Also, I attended all local, state, and area educational meetings.

7. The three write ups that were given as evidence for termination were not in accord with School Board Policies.

   These conferences were teacher-parent conferences held in the principal's office with the principal in attendance. On March 25, 1983, Mr. Humphries handed me the first conference report and asked me to sign it because he said that he was instructed to get the first set of papers back before he gave me the second set. I did not sign the papers because they were predated February. He later gave me all three reports the same day and demanded that I sign them. I did not sign them.

8. Conflicting statements of Mr. Humphries were allowed.

   Mr. Humphries testified very calmly the first day about my tenure at Watson. He had no problems with my teaching until the incident that happened at the end of school. The second day he changed completely, so much that he broke down and cried. The judge recessed court for fifteen minutes to allow him to regain composure. He broke down again as he continued to make false statements.

   I pray that this petition for a rehearing will be granted.

Sincerely,

/s/ Eula Nation

Enclosed are copies of the:

1. Subpoena letter
2. Subpoena
3. Date of Delivery receipts

Filed August 21, 1986
Robert D. St. Vrain
Clerk